

## Message Text

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ORIGIN EA-09

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DRAFTED BY EA/PHL:EHULEN

APPROVED BY EA/PHLEHULEN

PM/ISO:J.SCOTT (DRAFT)

OSD/ISA/FMRA:SGOLDSMITH

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R 090133Z MAY 76

FM SECSTATE WASHDC

TO AMEMBASSY MANILA

INFO CINCPACREPHIL

CG 13TH AF

C O N F I D E N T I A L STATE 113194

E.O. 11652: N/A

TAGS: PINS:RP

SUBJECT:MBA IMPLEMENTATION, CASE OF TSGT JAMES E. HORNE

1. PROSPECT OF EARLY MBA TALKS AND CONTINUING CONGRESSIONAL INTEREST HAVE LED US TO TAKE A HARD LOOK AT THE CASE OF TSGT JAMES E. HORNE, USAF. HORNE'S APPEAL BEFORE THE PHILIPPINE SUPREME COURT HAS BEEN PENDING SINCE HIS CONVICTION IN 1972 OF A RAPE ALLEDGEDLY OCCURRING IN 1970. ACCORDING TO DOD RECORDS, TRIAL COURT IN BAGUIO SENTENCED HORNE TO LIFE IMPRISONMENT, BUT RECOMMENDED EXECUTIVE ACTION TO DEPORT HORNE IN LIEU OF IMPRISONMENT IF ALLEDGED VICTIM WERE PAID 40,000 PESOS COMPENSATION.

2. BEGIN FYI. THE TRIAL WAS EVALUATED BY DOD TRIAL OBSERVER AS UNFAIR. TRIAL REPORT CITED POLITICAL DEMONSTRATIONS IN AND AROUND THE COURT ROOM, PARTIALITY BY THE JUDGE IN HIS OVER-ZEALOUS AND SUCCESSFUL EFFORTS  
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TO FORCE THE COMPLAINING WITNESS TO ATTEND THE TRIAL AND GIVE EVIDENCE UNFAVORABLE TO THE ACCUSED, AND BY IMPLICATIONS FROM THE PROCEEDINGS THAT CRIMINAL RAPE DID NOT OCCUR. THESE CONCLUSIONS BY THE TRIAL OBSERVER

WERE APPROVED BY DOD REVIEWING AUTHORITY. END FYI

3. WE ARE NOT AWARE OF ANY RECENT ACTION IN THIS CASE, AND GIVEN SPEEDY TRIAL PROVISIONS OF MBA WOULD BE HARD PUT TO DEFEND THE PROCESS OF PHILIPPINE JUSTICE SHOULD HORNE CASE BECOME A PUBLIC OR CONGRESSIONAL ISSUE DURING THE FORTHCOMING NEGOTIATIONS. AN ADDITIONAL POINT IS THAT THE LEGAL ISSUES INHERENT IN THE DETENTION BY DOD OF SERVICEMEN IN THE PHILIPPINES FOR INDEFINITE LENGTHY PERIODS UNDER THE CUSTODY PROVISIONS OF THE MBA IS UNDER REVIEW IN U.S. COURT SYSTEM UPON PETITION OF MICHAEL BUTLER, WHO IS CONFINED AT SUBIC NAVAL BASE.

4. EMBASSY PLEASE CHECK WITH 13TH AF AND ADVISE WHAT ACTION MAY BE FEASIBLE TO RESOLVE HORNE CASE AT EARLIEST POSSIBLE TIME. WE ARE AWARE OF SENSITIVITIES IN THIS SITUATION, AND POSSIBLY PRECIPITIOUS ACTION COULD BE COUNTERPRODUCTIVE OR HARMFUL TO HORNE'S INTERESTS, BUT WISH EMBASSY'S COMMENTS ON ALL OPTIONS, INCLUDING APPROACHES TO MARCOS OR OTHER HIGH GOP OFFICIALS.

5. DOD CONCURS. KISSINGER

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<< END OF DOCUMENT >>

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